

RESOLUTION NO. 2010 - 128

A RESOLUTION TO AMEND THE CITY OF RALEIGH STORM DRAINAGE POLICY

WHEREAS, the City Council of the City of Raleigh has adopted a Storm Drainage Policy and has amended the same on several occasions; and

WHEREAS, additional clarification is needed as it relates to funding formulas relating to clogged/unclogging pipes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RALEIGH:

Section 1. That this resolution shall be referred to as the "City Storm Drainage Policy."

Section 2. That the policy of the City of Raleigh with respect to storm drainage involving open ditches, drains and streams shall be as follows:

Upon receipt of a petition by the owner(s) of property which is already subdivided and developed for private or public purposes which is traversed by or adjoining an open ditch, stream, or other natural watercourse related to such developed property and water from public lands contribute to the problem, the City Council on the advice of the City Manager, and to the extent that funds are available and to the extent that such work is reasonable and practical, will consider the piping, stabilization of, or improvement of such watercourse. Only projects involving severe erosion, street flooding or structural flooding will be considered for City assistance. The project will be considered subject to the following:

- A. The City Manager is given administrative authority for assigning staff responsibility for the receipt, review and evaluation of projects under the City Storm Drainage Policy.
- B. The City will direct all work necessary to complete an authorized project including but not limited to design, engineering, materials acquisition and construction or in the case of approved reimbursement projects will review and approve all work necessary to complete an authorized project including but not limited to design, engineering, materials acquisition and construction.
- C. Approved projects shall be subject to the following funding formulas:
 1. Projects involving both street and structural flooding will be funded 100% by the City based on available City funding and priorities.
 2. Projects involving structural flooding will be funded using a cost-sharing formula of 85% City /15% property owner with a cap of \$5,000 for each property owner share using the least cost solution as determined by the City. Property owners may select other alternative

solutions, but will be responsible for all costs in excess of 85% of the least cost alternative.

3. Projects involving severe erosion will be funded using a cost-sharing formula of 80% City /20% property owner with a cap of \$5,000 for each property owner share using the least cost solution as determined by the City. Property owners may select other alternative solutions, but will be responsible for all costs in excess of 80% of the least cost alternative.

- D. The least cost alternative as computed by the City shall be the basis for determining the City's level of funding in conjunction with the appropriate cost sharing formula as stated in (c) above.
- E. Natural creeks and streams shall be retained if necessary for water quality purposes and if structural flooding damage is not involved.

Section 3. That the policy of the City of Raleigh with respect to dredging natural watercourses in the City such as creeks and streams shall be as follows:

Upon receipt of a petition signed by the owner or owners of property traversed by or adjoining a creek, stream, or other natural watercourse, the City, to the extent reasonable and practical, will dredge such watercourse, at its discretion, on the advice of the City Manager and Public Works Director, when the obstruction thereof has resulted or is likely to result in structural flooding or a public safety problem as determined by the City, and the watercourse drains 100 acres or more. Such dredging shall be performed under the following conditions and pursuant to the following procedures:

- A. All dredging cost shall be borne by the City; but the City will bear none of the cost of any damage to any person or property.
- B. The petitioner(s) shall constitute the owners of enough property through which the watercourse flows or which it adjoins to form the basis of a project which the City Council decides should be undertaken.
- C. The petitioner(s) and other owners of land touching the watercourse shall agree to accept or pay for the disposal of the spoil generated by the dredging.
- D. The City will not participate in projects requiring removal of significant numbers of trees and/or natural areas adjacent to streams necessary for water quality purposes.

Section 4. That the policy of the City of Raleigh with respect to correcting drainage problems associated with storm drainage pipes not previously installed by the City shall be as follows:

Upon receipt of a petition signed by the owner(s) of property which has already been subdivided and developed for private or public purposes which is traversed by or adjoining a previously installed storm drainage pipe or connection in the vicinity of which a problem of severe erosion, street flooding, structural flooding, or a public nuisance has developed and water from public lands contribute to the problem, the City to the extent reasonable and practical, will consider performing exploratory and corrective work subject to the following conditions:

- A. If a public facility on City property owned and maintained by the City is the cause of or is endangered by the problem, the City will remove the cause or eliminate the damage.
- B. Approved projects shall be subject to the following funding formulas:
 - 1. Projects involving both street and structural flooding will be funded 100% by the City based on available City funding and priorities for the least cost solution as determined by the City.
 - 2. Projects involving structural flooding will be funded using a cost-sharing formula of 85% City /15% property owner with a cap of \$5,000 on the property owner share for the least cost solution as determined by the City. Property owners may select other alternative solutions, but will be responsible for all costs in excess of 85% of the least cost alternative.
 - 3. Projects involving severe erosion will be funded using a cost-sharing formula of 80% City /20% property owner with a cap of \$5,000 on the property owner share for the least cost solution as determined by the City. Property owners may select other alternative solutions, but will be responsible for all costs in excess of 80% of the least cost alternative.
 - 4. Projects involving both street flooding and clogged pipes will be funded 100% by the City based on available City funding and priorities for the least cost solution as determined by the City.
- C. If the problem is neither caused by nor endangers a City facility, the City Council on the advice of the City Manager, and to the extent that funds are available and to the extent that such work is reasonable and practical, will consider performing exploratory and corrective work. The project will be considered subject to the following:
 - 1. The City Manager is given administrative authority for assigning staff responsibility for the receipt, review and evaluation of projects under the City Storm Drainage Policy.
 - 2. The City will direct all work necessary to complete an authorized project including but not limited to design, engineering, materials acquisition and construction or in the case of approved reimbursement

projects will review and approve all work necessary to complete an authorized project including but not limited to design, engineering, materials acquisition and construction.

- D. Approved projects shall be subject to the following funding formulas:
1. Projects involving both street and structural flooding will be funded 100% by the City based on available City funding and priorities for the least cost solution as determined by the City.
 2. Projects involving structural flooding will be funded using a cost-sharing formula of 85% City /15% property owner with a cap of \$5,000 on the property owner share for the least cost solution as determined by the City. Property owners may select other alternative solutions, but will be responsible for all costs in excess of 85% of the least cost alternative.
 3. Projects involving severe erosion will be funded using a cost-sharing formula of 80% City /20% property owner with a cap of \$5,000 on the property owner share for the least cost solution as determined by the City. Property owners may select other alternative solutions, but will be responsible for all costs in excess of 80% of the least cost alternative.
 4. Projects involving both street flooding and clogged pipes will be funded 100% by the City based on available City funding and priorities for the least cost solution as determined by the City.
 5. **Projects involving clogged pipes will be funded using a cost-sharing formula of 50% City /50% property owner with a cap of \$5,000 on the property owner share for the least cost solution as determined by the City. Property owners may select other alternative solutions, but will be responsible for all costs in excess of 50% of the least cost alternative. Options for resolving clogged pipes as a least cost alternative may include, but not be limited to unclogging the pipe, removing the pipe and replacing it with an open channel, or pipe replacement.**
- E. The least cost alternative as computed by the City shall be the basis for determining the City's level of funding in conjunction with the appropriate cost sharing formula as stated in Section 2 through Section 4 of this Resolution

Section 5. That the policy of the City of Raleigh with respect to replacing inadequate storm drainage facilities causing public nuisances shall be as follows:

Nuisances caused by the standing of water, described more specifically in Section 12-6002(e)(n)(p) of the City Code shall be abated pursuant to City Code 12-6003(a)(b)(c) and

the costs of such abatement shall be assessed according to the provisions of City Code Section 12-6003(d) relating to the same.

Section 6. That, in addition to the specific conditions and procedures applicable to each of the above sections, the following conditions and procedures shall also be applicable to each:

- A. Petitions shall be on forms approved by the City.
- B. Once the City Council approves the project, the petitioner shall make a 10 percent deposit of the total project cost within 30 days of City Council approval of the project. This deposit is not refundable if the City has incurred costs for surveys, drafting, or design work. If the petitioner continues with the project, the deposit would be applied to the project's total cost.
- C. Plans for work shall be coordinated with and approved by the City. Prior to preparation, agreement as to details should be reached.
- D. No work shall be performed until the project is approved by the City Council. For projects approved during the semi-annual review of storm drainage petition projects in February and July of each year, the Stormwater Management Advisory Commission will make a recommendation to City Council on all projects submitted. The Stormwater Management Advisory Commission will consider available funding, project priorities and the submittal date of petition requests for City funding assistance.
- E. Upon project completion, a copy of the petition and all associated agreements shall be recorded in the Office of the Register of Deeds of Wake County to give notice to subsequent purchasers of all conditions set forth herein.
- F. All authorized work referred to herein shall be performed by the City, its agents and/or contractors or authorized via a reimbursement agreement with the property owner(s).
- G. Participation by the City, its agents and contractors in the cost of the work shall be limited to the extent to which City funds are available for such purpose.
- H. The petitioner(s) shall maintain and keep in good repair and condition the improved watercourse, as directed by the City Council.
- I. Any and all improved watercourses shall become, thereby, subject to connection with any and all private, public street and other storm drainage which would normally empty into the watercourse so improved. Such

connection may be directed by the City at any time during or after the improvement takes place.

- J. No action or inaction of the City pursuant to the policy established by this resolution shall impose upon the City of Raleigh, its agents, officers, or employees, any responsibility or liability of any kind, past or future, relating to any person or property. The petitioner(s) shall agree to covenant to and hold the City harmless from any death, personal injury, or property damage resulting from the work. No such action by the City shall be considered as a taking or appropriation of any stream, drain, or ditch as a part of the City's drainage system.
- K. The conditions set forth in this resolution shall be binding on the heirs, successors, assigns and grantees of the petitioner or petitioners.
- L. The petitions shall be considered and acted upon as the workload of the City staff will permit. Such schedules shall be evaluated by the City Council in its complete discretion, on advice from the City Manager; provided, the improvements authorized by this resolution shall generally, and as nearly as practical, be constructed based on the priority ranking system then in the order in which petitions are acted upon by the City Council unless good cause exists for a variance.
- M. Nothing herein shall be construed, or applied in such manner as to aid or assist in the subdivision or development of property in the City. The policy set out herein shall be applicable only to those properties for which no new subdivisions or development are anticipated.
- N. The petitioner(s) shall grant the City appropriate easement(s) across (his)(her)(their) property(ies) for the purpose of performing the necessary, preliminary field work and the actual, later improvements. Access to the work area must be provided and the City will be held harmless for any damages to private property as long as diligent and judicial care is exercised in the pursuit of the work. The petitioner(s) agree that no claims or legal actions against the City or any City employees will be undertaken as a result of this work and that the City will be held blameless.
- O. The petitioners and the City shall execute agreements providing for the construction of the project and for the payment of the petitioners' shares of the project cost.
 - 1. Petitioners may pay their share of the cost by depositing with the City an amount equal to the estimated share and executing an agreement regarding responsibilities of the petitioner and the City. The petitioners' costs shall not exceed the estimated share, and any payment in excess of actual cost shall be refunded to the petitioner.

2. Petitioners may pay their share in installments under the following conditions:
 - a) Applications for installment payment shall be submitted with a non-refundable application fee to cover credit checks, appraisals, and other costs of processing a loan. Investigations similar to those used by banks to evaluate home equity loans shall be undertaken by the City.
 - b) A first or second position lien in an amount no greater than 80 percent of the unencumbered property value will be considered sufficient security for the loan.
 - c) After determination that income, credit history, security, and other normal requirements for the loan have been met, the application for installment payments will be approved by the City.
 - d) The applicant shall submit a deposit at least equal to 10 percent of the estimated share and an executed agreement to pay the remainder in equal annual payments at 6 percent interest over a time period not to exceed 10 years. The first payment will be due one year after notification of project completion by the City.
 - e) The minimum loan amount shall be \$2000.
3. If executed agreements and required deposits are not received from all participants within 4 months following presentation of such agreements by the City, the City will provide second notice that agreements should be executed. If all agreements are not executed and returned to the City within 2 months following the second notice, the project shall be terminated, deposits shall be refunded, and the City Council shall be notified of project termination. Application fees for installments shall not be refunded.

P. Definitions:

1. Public lands are defined as City property owned fee simple and City/ NCDOT owned and maintained roads.
2. Structural flooding includes crawlspace, finish floor, garage, and basement flooding caused by surface stormwater flows and not groundwater infiltration. Structural flooding also includes sheds and outbuildings on a permanent, enclosed foundation that cannot be easily moved. Sheds and outbuildings not on permanent, enclosed foundations, or that can be easily moved, and where moving the

structure is the least cost alternative to prevent flood damage to the structure are not defined as having structural flooding.

3. Street flooding is defined to occur when the existing drainage system does not meet the standards of Raleigh City Code Section 10-3053 or the storm frequency requirements in Section 1.2.2 of the City of Raleigh Stormwater Management Design Manual.

Q. All projects will be authorized and funded based on the project priority ranking system and available City funding.

R. In order to qualify for City funding assistance through the City Storm Drainage Policy, the property owner shall have no past due stormwater utility fees.

Section 7. That all resolutions, orders, actions, and other policies in conflict herewith, are repealed to the extent of such conflict.

Section 8. That this resolution shall become effective immediately upon its adoption.

Section 9. That this resolution may be altered, amended or repealed in the complete and utter discretion of the City Council; provided, no such action shall, in any way, abrogate, repeal or waive the conditions attached to any improvement already made hereunder.

Adopted: April 6, 2010

Effective: April 6, 2010

Distribution: Department Heads